

Statement of Representative Ron Kind (D-WI)
June 4, 2003

Mr. Speaker, I rise today in support of the Hoyer/Greenwood/Johnson substitute, the Late Term Abortion Restriction Act, and in opposition to the underlying bill.

In June 2000, in *Stenberg v. Carhart*, the U.S. Supreme Court invalidated a Nebraska statute that ostensibly prohibited "partial-birth" abortions. The court based its decision on two determinations: (1) the statute lacked any exception for the preservation of a woman's health; (2) the statute placed an "undue burden" on the right to choose abortion because its vague definition of "partial birth" abortion could cover multiple procedures, at any time during a pregnancy, regardless of viability. Due to these determinations, the court found the Nebraska statute unconstitutional.

Justice Sandra Day O'Connor, however, indicated that if changes were made in the legislation to address these concerns, restrictions on late-term abortions could be found constitutional. Unfortunately, the authors of HR 760, the underlying bill, failed to follow the outline by Justice O'Connor.

The legislation I support, the Hoyer/Greenwood/Johnson substitute, is a bipartisan effort that meets the Supreme Court's criteria. This substitute would ban all abortions after fetal viability, allowing an exception to protect the life or health of the mother. This bill did not eliminate a particular procedure; it would prohibit all late-term post-viability abortions by whatever method or procedure.

Most people, even those who oppose abortion, would make allowances for pregnancies as a result of rape or incest. There is no doubt that a young girl who becomes pregnant as the result of rape or incest can medically carry the pregnancy to term. However, many of us would say that that young girl should have the option to terminate that pregnancy as a means to safeguard emotional well-being—that is an argument in favor of recognizing the traumatic impact of a pregnancy due to rape or incest.

Some would argue that the pregnancy could be terminated earlier. We would hope so. However, the psychiatric and sociological record is replete with scientific and anecdotal evidence that even in the most supportive environments, girls who are victims of rape and incest are reluctant to reveal their abuse, leaving them vulnerable to emotional and mental breakdown, self-destructive behavior, and, in the worst case, unrecognized or unacknowledged pregnancies

up until the last trimester. Only the Hoyer/Greenwood/Johnson substitute would adequately address this serious issue.

While this has been a difficult issue, I must oppose HR 760. This bill does not recognize the constitutionality issues raised by the Supreme Court. It does not contain an exception for a woman's health, nor does it adequately define "partial birth" abortion in such a way as to address the issue of "undue burden." I am confident that if this bill is signed into law, the Supreme Court would strike it down.

As a member of the United States Congress, I took an oath to uphold the Constitution of the United States. I will not betray that oath. Now that the Supreme Court has determined the Constitutional parameters for a partial-birth abortion ban in the *Stenberg* case, I must adhere to that decision and cannot vote for a bill that is blatantly unconstitutional. HR 760 does not comply with the Court's decision.